

## CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 10/11/2012

Action Requested By:  
Legal

Agenda Item Type  
Resolution

Subject Matter:

Modification No. 4 to SDA 2012-B

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 4 to the Supplemental Development Agreement TIF-5, Series 2012-B to the Annexation and Development Agreement between the City of Huntsville and LW Redstone Company, LLC.

**Note: If amendment, please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 10-8-12

RESOLUTION NO. 12-\_\_\_\_\_

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Modification No. 4 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 4 to Supplemental Development Agreement TIF5 Series 2012-B between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of October 11, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 11th day of October, 2012.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

APPROVED this the 11th day of October, 2012.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

**MODIFICATION No. 4 TO THE  
SUPPLEMENTAL DEVELOPMENT AGREEMENT  
TIF5 – Series 2012-B TO ANNEXATION AND  
DEVELOPMENT AGREEMENT BETWEEN THE  
CITY OF HUNTSVILLE AND LW REDSTONE  
COMPANY, LLC AS ADOPTED AND APPROVED  
BY RESOLUTION No. 12-428 ON MAY 24, 2012, AS  
MODIFIED BY RESOLUTION No. 12-479 on JUNE 14, 2012,  
RESOLUTION No. 12- 551 ON JUNE 28, 2012, and RESOLUTION No. 12-648 on July 26, 2012.**

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, ("Agreement"), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama ("City") and L W REDSTONE COMPANY, LLC, a Delaware limited liability company ("Owner"), City and Owner enter into this Modification No. 4 to the Supplemental Development Agreement TIFS-Series 2012-B which was previously adopted and approved on May 24, 2012, modified on June 14, 2012, June 28, 2012 and July 26, 2012 and hereby provide more specifically for the obligations of City and Owner.

1. Within Section B., add the following to **BUILDING AND EARTH SCIENCES, INC. (BESI) GEOTECH CONSTRUCTION TESTING:** The amount originally budgeted and allocated for the contract with Building & Earth Sciences, Inc. (BESI) for Construction Materials Testing Services Redstone Gateway, Phase 1A, Project No. 65-10-SP21 was originally \$60,000 funded by SDA TIF5 Series- 2010-B, as approved by Resolution No. 10-892 on October 28, 2010. The original contract was approved by City of Huntsville Resolution No. 10-981 on December 2, 2010 in the amount of \$ 49,780.25. Modification No. 8 to SDA TIF5 Series 2010-B, as approved by Resolution No. 12-6S on January 26, 2012, provided additional funding for BESI's prospective contract Modification No. 1 in the amount of \$20,000, thereby resulting in a total budgeted amount of \$80,000. BESI's contract was amended by Modification No. 1 in the amount \$29,867.50 by Resolution No. 12-2S1 on March 22, 2012 to a revised contract amount of \$79,647.75. Modification No. 9 to SDA TIF5-Series 2010-B approved by Resolution 12-219 on March 8, 2012 reduced the budgeted amount by \$ 3S2.25 to match the revised contract amount of \$79,647.75. Modification No. 2 in the amount of \$39,8S1.90 will be added to the BESI contract to include continued testing services for Phases 1A and 1F and to extend the contract completion date. The addition of Modification No. 2 will result in a revised total contract amount of \$119,499.65. Therefore, \$39,8S1.90 will be deducted from the subsection entitled **ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED** in order to fund this contract modification.

President of the City Council of the  
City of Huntsville, Alabama  
Date:

All other terms and conditions of the SDA TIF5-SERIES 2012-B remain unchanged.

(Signatures on following page)

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

("OWNER")

L W REDSTONE COMPANY, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MARYLAND )

COUNTY OF HOWARD )

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that \_\_\_\_\_, as \_\_\_\_\_, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

THE CITY OF HUNTSVILLE, ALABAMA,

A municipal corporation

By: \_\_\_\_\_

Tommy Battle

Its: Mayor

ATTEST:

\_\_\_\_\_  
Charles E. Hagood  
Clerk-Treasurer

STATE OF ALABAMA    )

COUNTY OF MADISON   )

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Charles E. Hagood, as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being Informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

# ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 10/11/2012

Department Contact: Clissy Cates

Phone # 5026

Contract or Agreement: Mod. 4 to SDA T1F5 Series 2012-B

Document Name: Modification No. 4 to SDA 2012-B LW Redstone

City Obligation Amount: NA

Total Project Budget:

Uncommitted Account Balance:

Account Number:

## Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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## Grant-Funded Agreements

<u>Select...</u>	<u>Grant Name:</u>
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Department	Signature	Date
1) Originating	<i>Mary C Cates</i>	<i>10/3/12</i>
2) Legal	<i>Mary C Cates</i>	<i>10/3/12</i>
3) Finance	<i>no</i>	<i>10/8</i>
4) Originating	<i>John P. [unclear]</i>	<i>10-8-12</i>
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		